

NOT DESIGNATED FOR PUBLICATION  
ARKANSAS COURT OF APPEALS  
D.P. MARSHALL JR., Judge

DIVISION II

CACR06-864

27 June 2007

JAMES ALAN THOMAS,

APPELLANT

v.

STATE OF ARKANSAS,

APPELLEE

AN APPEAL FROM THE BENTON  
COUNTY CIRCUIT COURT  
[CR-2004-324-2]

THE HONORABLE DAVID S.  
CLINGER, CIRCUIT JUDGE

AFFIRMED; MOTION TO BE  
RELIEVED GRANTED

James Alan Thomas appeals the revocation of his probation. His attorney filed a no-merit brief and a motion to be relieved as counsel pursuant to *Anders v. California*, 386 U.S. 738 (1967) and Arkansas Supreme Court Rule 4-3(j)(1). Thomas did not file *pro se* points on appeal.

In 2004, Thomas pleaded guilty to domestic battery and violating a protection order. The circuit court placed him on supervised probation for one year. In 2006, the State petitioned to revoke, alleging that Thomas had violated several conditions of his probation. The State amended the petition twice to include violations for drug use and possession. At the revocation hearing, Thomas did not deny that he had confessed

to using marijuana or that he had been convicted of two drug-related crimes in Missouri.

The circuit court revoked Thomas's probation because he failed to report to his probation officer, did not finish court-ordered anger-management classes, failed to tell his probation officer about his change in employment, failed to pay fines, moved to Missouri without telling the court or his probation officer, admitted to using drugs, and was convicted of possessing drugs and drug paraphernalia.

The State had to prove by a preponderance of the evidence that Thomas inexcusably violated one of his probation conditions. *Richardson v. State*, 85 Ark. App. 347, 350, 157 S.W.3d 536, 538 (2004). At the hearing, Thomas apologized and explained to the circuit court that he violated many of his conditions because he was caring for his parents and girlfriend, all of whom had serious health problems. At least one of his violations, however, was undisputed and inexcusable: his admitted drug use and possession had nothing to do with caring for ailing loved ones. Therefore, the circuit court's revocation of Thomas's probation was not clearly against the preponderance of the evidence. *Ibid.* We affirm the revocation and grant counsel's motion to be relieved.

GLADWIN and MILLER, JJ., agree.